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			3628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/543,868

Applicant(s)

HORNSTEIN, DAVID

Examiner

Debra F. Charles

Art Unit

3628

WU

Period for Reply - The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-22 and 24-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-22 and 24-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. Claims 1, 2, 4, 5, 6, 10,11,12,13,15,16,17,18, 19, 20, 21, 22,24,25, 26, 27, and 28 have been amended.

As a result of the amendments, the examiner is revoking the 101 rejection of the previous office action.

Response to Arguments

2. Applicant's arguments with respect to claims 1-8, 10-22 and 24-37 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the steps needed to determine whether the user has given consistent responses to an aesthetic characteristic or combination of aesthetic characteristics emphasized in said plurality of sets of images; and if a consistent response has been given. These steps are not included in the claims so it is not clear how the invention determines whether the use has given consistent responses. This should be part of the claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2, 4, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau (U.S. PAT. 5634101 A), Slotznick(U.S. PAT. 5983200 A) and Harada et al.(U.S. PAT. 5495602 A).

Per claim 1: Blau disclose a method for selecting products that occurs over a networked computer system comprising:

providing a plurality of images stored on a storage device(col. 1, lines 30-col. 2, line 20, claim 1);

a plurality of test images selected from the plurality of images one or more questions that request the user's preferences for the test images presented(claim 1); and
receiving from a user a set of responses from the questions(col. 4, lines 20-35).

Blau disclose(s) the claimed invention except sending a user a web page and based on the user's responses, producing a profile of the user's preferences for the aesthetic characteristics in the plurality of test images. However, in Fig. 4,6,7, and 8, col. 13, lines 35-67 thereof, Slotznick disclose(s) web pages and profiles including databases which generate a profile of user preferences by interactive questioning, by recording a history of the user's actual choices, or by some other means of combination of means. The term includes databases which use profiles to create inference ranking rules that would suggest which choices an individual most prefers. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Slotznick. The motivation to combine these references is to understand the customer's train of thought in the consumers' minds which lead from product feature to benefit identification and anticipated usage satisfaction.

Blau and Slotznick disclose the claimed invention except wherein each image has a grade associated with each aesthetic characteristic in a set of predetermined aesthetic characteristics. However, in col. 3, lines 30-50, col. 7, lines 50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics with a grade or ranking . It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

Re claim 2: Blau and Harada et al. disclose(s) the claimed invention except compiling an aesthetic profile tag for the user based on the received responses. However, in Fig. 4, 6, 7, and 8, col. 13, lines 35-67 thereof, Slotznick disclose(s) profiles including databases which generate a profile of user preferences by interactive questioning, by recording a history of the user's actual choices, or by some other means of combination of means. The term includes databases which use profiles to create inference ranking rules that would suggest which choices an individual most prefers. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Slotznick. The motivation to combine these references is to understand the customer's train of thought in the consumers' minds which lead from product feature to benefit identification and anticipated usage satisfaction.

Re claim 4: Blau disclose the user is presented with a graphical user interface that contains questions that elicit the information from the user including questions that gauge the user's preferences for the plurality of test images selected from the plurality of images(col. 1, lines 30-col. 2, line 20, claim 1).

Re claim 6: Blau and Harada et al. does not explicitly disclose web page includes a control for the user to enter a value corresponding to how the user rates something. However, in Fig. 4, 6, 7, col. 6, lines 45-65, thereof, Slotznick disclose a send button on

the remote control and also the figures show a web page with controls on the web page that the user accesses to enter a value. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and based on the teachings of Slotznick. The motivation to combine these references is profiles of the target objects are stored on electronic media and are accessible via data communications network via controls placed on the web page via HTML XML tags that facilitate performance of the task.

Re claim 36: Blau and Slotznick disclose(s) the claimed invention except the predetermined set of aesthetic characteristics, include at least one of form, material, decoration, overall appearance, and novelty. However, in col. 3, lines 30-50, col. 7, lines 50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics with a grade or ranking. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

4. Claims 3,7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al. as applied to claim 1 above, and further in view of

Meir et al.(U.S. PAT. 6037950 A) and IBM Research Disclosure Vol. 42, Iss. 423, July 1, 1999.

Re claim 3: Blau, Slotznick and Harada et al. disclose(s) the claimed invention except a product aesthetic tag associated with a particular product type and the product aesthetic tag representing one or more aesthetic features of the product. However, in col. 4, lines 10-60, col. 5, lines 30-45 thereof, Meir et al. disclose(s) a profile tag that matches with items in a database. It would be obvious to one of ordinary skill in the art to modify the invention of Blau, Slotznick and Harada et al. based on the teachings of Meir et al. The motivation to combine these references is allowing the addition or modification of capabilities without the need to update the main software program in terms of recompilation or re-linking.

Blau, Slotznick, Harada et al. and Meir et al. does not explicitly disclose forming a result tag that contains a value corresponding to how well aesthetic features of the product match to aesthetic preferences of the customer. However, the IBM technical disclosure dated July 1, 1999, IBM discloses XML tags which indicate HTML constructs as well as transform preferences that effectively match the features to the product based on preferences and on a user profile. It would be obvious to one of ordinary skill in the art to modify the invention of Blau, Slotznick, Harada et al. and Meir et al. based on the teachings of IBM Research Disclosure. The motivation to combine these references is to invoke user preferences based on an existing profile.

Re claims 7 and 8: Blau does not explicitly disclose rank ordering the result tags and presenting the user with the products corresponding to the rank ordered result tags.

However, in Fig. 4,6,7, and 8, col. 13, lines 35-67, col. 15, lines 5-30 thereof, Slotznick disclose(s) ranking rules that reflect user ranking preferences and a display feature that displays user rankings on the screen in an ordered result. The term tag here refers to the HTML XML formatting tag that shows data on the internet browser screen in a specific format. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Slotznick. The motivation to combine these references is to present on the internet browser screen a group of ordered data for user selection or response.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al. as applied to claim 1 above, and further in view of Herz et al. (U.S.PAT. 5754939 A).

Blau, Slotznick and Harada et al. does not explicitly disclose at least one of the questions presented to the user asks the user to indicate the strength of the user's preferences for an image on a scale. However, in col. 18, lines 40-67, col. 26, lines 40-col. 27, line 45 thereof, Herz et al. disclose(s) strength of user preferences for those

target objects that have high values for this attribute, and when target objects are wallpaper patterns, an attribute may be a matter of judgment and opinion requiring consultation with a human being. It would be obvious to one of ordinary skill in the art to modify the invention of Blau, Slotznick and Harada et al. based on the teachings of Herz et al. The motivation to combine these references is profiles of the target objects are stored on electronic media and are accessible via data communications network.

6. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau and Harada et al.

Re claims 10 and 11: Blau disclose a method executed on a computing device for producing an aesthetic profile tag for a user comprises:

viewing, on a display associated with the computing device, set of test images selected from a plurality of images, (col. 1, lines 30-col. 2, line 20, col. 4, lines 30-50, claim 1);
and

entering, on a user input device associated with the computing device, preferences for the selected test images(col. 3, lines 5-35, i.e., a keyboard is a user input device, col. 4, lines 20-35).

Blau disclose(s) the claimed invention except wherein each of the plurality of images has a grade associated with a plurality of aesthetic characteristics that are expressed in

the respective image; and the predetermined set of aesthetic characteristics, include at least one of form, material, decoration, overall appearance, and novelty. However, in col. 3, lines 30-50, col. 7, lines 50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics with a grade or ranking. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

7. Claims 13, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al.

Re claim 13: Blau disclose a computer program product for establishing a user profile of aesthetic preferences, said computer program product residing on a computer readable medium comprises instructions for causing a computer to:

transmit to a user over a networked computer system a set of test images selected from a plurality of images, (col. 1, lines 30-col. 2, line 20, claim 1);

receive from a user responses for preferences for said aesthetic characteristics expressed in said set of test images(col. 4, lines 20-35, claim 1).

Blau disclose(s) the claimed invention except wherein the computer program product produces a graphical user interface that contains questions that elicit information from the user regarding the user's preferences for aesthetic characteristics expressed in said set of images. However, in Fig. 4,6,7, and 8, col. 13, lines 35-67 thereof, Slotznick disclose(s) web pages and profiles including databases which generate a profile of user preferences by interactive questioning, by recording a history of the user's actual choices, or by some other means of combination of means. The term includes databases which use profiles to create inference ranking rules that would suggest which choices an individual most prefers. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Slotznick. The motivation to combine these references is to understand the customer's train of thought in the consumers' minds which lead from product feature to benefit identification and anticipated usage satisfaction.

Blau and Slotznick disclose the claimed invention except wherein each image has a grade associated with each aesthetic characteristic in a set of predetermined aesthetic characteristics. However, in col. 3, lines 30-50, col. 7, lines 50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics

with a grade or ranking . It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

Re claim 14: Blau disclose(s) the claimed invention except compile an aesthetic profile tag for the user based on the received responses for the aesthetic characteristics expressed in said set of test images. However, in Fig. 4,6,7, and 8, col. 13, lines 35-67 thereof, Slotznick disclose(s) web pages and profiles including databases which generate a profile of user preferences by interactive questioning, by recording a history of the user's actual choices, or by some other means of combination of means. The term includes databases which use profiles to create inference ranking rules that would suggest which choices an individual most prefers. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Slotznick. The motivation to combine these references is to understand the customer's train of thought in the consumers' minds which lead from product feature to benefit identification and anticipated usage satisfaction.

Re claim 15: Blau disclose a system for selecting products, said system comprising:

a computer(col. 3, lines 5-35);

a storage device comprising a plurality of images(col. 3, lines 5-35),

a computer program product residing on a computer readable medium(col. 3, lines 5-35, i.e. hard drive is a computer-readable medium) comprising instructions for causing the computer to:

display one or more images selected from the plurality of test images(col. 1, lines 30- col. 2, line 20, claim 1):

receive from a user responses for preferences for aesthetic characteristics embodied in the displayed images that correspond to aesthetic features of products(col. 4, lines 20- 35, claim 1).

Blau disclose(s) the claimed invention except wherein the computer program product produces a graphical user interface that contains questions that illicit the information

from the user. However, in Fig. 4,6,7, and 8, col. 13, lines 35-67 thereof, Slotznick disclose(s) web pages and profiles including databases which generate a profile of user preferences by interactive questioning, by recording a history of the user's actual choices, or by some other means of combination of means. The term includes databases which use profiles to create inference ranking rules that would suggest which choices an individual most prefers. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Slotznick. The motivation to combine these references is to understand the customer's train of thought in the consumers' minds which lead from product feature to benefit identification and anticipated usage satisfaction.

Blau and Slotznick disclose the claimed invention except wherein each image has a grade associated with a plurality of aesthetic characteristics embodied in the image. However, in col. 3, lines 30-50, col. 7, lines 50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics with a grade or ranking . It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

8. Claims 16, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al.

Re claim 16: Blau disclose a method executed on a computing device for determining user aesthetic preferences, the method comprising:

selecting a set of test images from a plurality of images to present to a user, (col. 1, lines 30-col. 2, line 20, claim 1),

presenting a said set of test images to a user(col. 1, lines 30-col. 2, line 20, claim 1),

receiving input from the user indicating the user's preferences for one or more aesthetic characteristics expressed in one or more of the images in the set of test images(col. 4, lines 20-35, claim 1).

Blau disclose(s) the claimed invention except establishing with the computing device an aesthetic profile for the user based on the user's input. However, in Fig. 4,6,7, and 8, col. 13, lines 35-67 thereof, Slotznick disclose(s) web pages and profiles including databases which generate a profile of user preferences by interactive questioning, by

recording a history of the user's actual choices, or by some other means of combination of means. The term includes databases which use profiles to create inference ranking rules that would suggest which choices an individual most prefers. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Slotznick. The motivation to combine these references is to understand the customer's train of thought in the consumers' minds which lead from product feature to benefit identification and anticipated usage satisfaction.

Blau and Slotznick disclose the claimed invention except wherein each of the plurality of test images has a grade associated with each aesthetic characteristic in a predetermined set of aesthetic characteristics. However, in col. 3, lines 30-50, col. 7, lines 50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics with a grade or ranking . It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

Re claim 18: Blau and Slotznick disclose(s) the claimed invention except the predetermined set of aesthetic characteristics, include at least one of form, material, decoration, overall appearance, and novelty. However, in col. 3, lines 30-50, col. 7, lines

50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics with a grade or ranking. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

Re claim 20: Blau disclose(s) wherein the input from the user indicating the user's preferences for one or more aesthetic characteristics expressed in of one or more images in the set of images comprises the user's selection of an image from the set of test images(col. 4, lines 20-35, claim 1).

9. Claims 17,19,21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al. as applied to claim 16 above, and further in view of Herz et al.(U.S.PAT. 5754939 A).

Re claim 17: Blau and Slotznick disclose the claimed invention except one or more items are selected to emphasize a particular aesthetic characteristic. However, in col. 5, lines 15-40, col. 6, lines 45-60, thereof, Herz et al. disclose(s) individual set of items, each of which identifies one of the user's area of interest. And generates for each user a

customized rank-ordered listing of target objects most likely to be of interest to that user. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Herz et al. The motivation to combine these references is to highlight only those items of interest to the user.

Re claim 19: Blau disclose(s) the claimed invention except presenting the user with a scale in which to indicate the strength of the user's preferences for one or more images presented in the set of test images. However, in col. 18, lines 40-67, col. 26, lines 40-col. 27, line 45 thereof, Herz et al. disclose(s) strength of user preferences for those target objects that have high values for this attribute, and when target objects are wallpaper patterns, an attribute may be a matter of judgment and opinion requiring consultation with a human being. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Herz et al. The motivation to combine these references is profiles of the target objects are stored on electronic media and are accessible via data communications network.

Re claim 21: Blau and Slotznick disclose the claimed invention except selecting a plurality of sets items to a user, wherein each set of images emphasizes an aesthetic characteristic or combination of aesthetic characteristics. However, in col. 5, lines 15-40, col. 6, lines 45-60, thereof, Herz et al. disclose(s) individual set of items, each of which identifies one of the user's area of interest. And generates for each user a

customized rank-ordered listing of target objects most likely to be of interest to that user. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Herz et al. The motivation to combine these references is to highlight only those items of interest to the user.

Claim 22: Blau and Slotznick disclose the claimed invention except selecting a plurality of sets items to a user, wherein each set of images emphasizes an aesthetic characteristic or combination of aesthetic characteristics. However, in col. 5, lines 15-40, col. 6, lines 45-60, thereof, Herz et al. disclose(s) individual set of items, each of which identifies one of the user's area of interest. And generates for each user a customized rank-ordered listing of target objects most likely to be of interest to that user. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Slotznick based on the teachings of Herz et al. The motivation to combine these references is to highlight only those items of interest to the user. It is not clear what steps the inventor is taking to determine whether the user has given a consistent response.

10. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al.

Re claim 24: Blau disclose viewing a product(col. 1, lines 30-col. 2, line 20, col. 4, lines 30-50, claim 1);

Blau disclose the claimed invention except grading each aesthetic characteristic in a set of predetermined aesthetic characteristics of the product on a scale to produce a grade; However, in col. 3, lines 30-50, col. 7, lines 50-col. 8, line 5 thereof, Harada et al. disclose(s) a classification system that associates aesthetic characteristics with a grade or ranking. It would be obvious to one of ordinary skill in the art to modify the invention of Blau based on the teachings of Harada et al. The motivation to combine these references is the translating means translates the expression word or sensuous expression into information having specific meaning on the basis of the translated information.

Blau and Harada et al. disclose the claimed invention except storing on a storage device in communication with said computer device the grade in a field corresponding to the graded aesthetic characteristics within the product profile. However, in Fig. 4,6,7, and 8, col. 13, lines 35-67 thereof, Slotznick disclose(s) web pages and profiles including databases which generate a profile of user preferences by interactive questioning, by recording a history of the user's actual choices, or by some other means of combination of means. The term includes databases which use profiles to create inference ranking rules that would suggest which choices an individual most prefers. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and

Harada et al. based on the teachings of Slotznick. The motivation to combine these references is to understand the customer's train of thought in the consumers' minds which lead from product feature to benefit identification and anticipated usage satisfaction.

Re claim 25: Blau disclose viewing one or more electronic images of the product(col. 1, lines 30-col. 2, line 20, col. 4, lines 30-50, claim 1).

11. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Harada et al. and Slotznick as applied to claim 24 above, and further in view of Surville(U.S. PAT. 5757661A).

Blau, Harada et al. and Slotznick disclose the claimed invention except a plurality of scales. However, in col. 3, lines 5-15 thereof, Surville disclose a plurality of gradings. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Harada et al. and Slotznick based on the teachings of Surville. The motivation to combine these references is to ensure a variation of different grading scales for different products.

12. Claims 27, 28, 29,30,31,32,33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al.

Re claim 27: Herz et al. disclose a computer-implemented method for selecting products that occurs over a networked computer system(Abstract) comprising:

retrieving a first user's profile, wherein the first user's profile which correspond to the first user's preferences for one or more aesthetic characteristics of products(col. 4, line 35-col. 5, line 67);

retrieving a second, different user's profile, wherein the second user's profile which correspond to the second user's preferences for one or more aesthetic characteristics of products(col. 4, line 35-col. 5, line 67, i.e. multiple profiles are incorporated in the summary of digital profiles and this incorporates a first and second profile); and

combining the first and second users' profile to create a composite profile of the first and second user(col. 4, line 35-col. 5, line 67).

Herz et al. disclose the invention except comprises one or more tags. However, the term tag here refers to the HTML XML formatting tag that shows data on the internet browser screen in a specific format. It would be obvious to one of ordinary skill in the art to modify the invention of Herz et al. to include tags in order to show the user profile correctly on the computer screen.

Re claim 28: Herz et al. disclose the step of combining the first and second users' profile (col. 4, line 35-col. 5, line 67) comprises:

combining the first user profile associated with an aesthetic characteristic with the second user profile associated with the same aesthetic characteristic; and
storing the combined in the composite profile(col. 4, line 35-col. 5, line 67).

Herz et al. disclose the invention except comprises tag. However, the term tag here refers to the HTML XML formatting tag that shows data on the internet browser screen in a specific format. It would be obvious to one of ordinary skill in the art to modify the invention of Herz et al. to include tags in order to show the user profile correctly on the computer screen.

Re claim 29: Herz et al. disclose the step of combining a tag contained in the first and second users' profile comprises:

averaging a value associated with the tag contained in the first user profile with a value associated with the tag contained in the second user profile(col. 4, line 35-col. 5, line 67, i.e. an aggregate average profile formed by averaging the attributes of all target objects).

Re claim 30. Herz et al. disclose the step of combining a tag contained in the first and second users' profile comprises:

assigning a weight factor to a value associated with a tag contained in the first user profile associated with an aesthetic characteristic;

assigning a weight factor to a value associated with a tag contained in the second user profile associated with the same aesthetic characteristic; and

averaging the weighted values of the tags in the first and second users' associated with the same aesthetic characteristic(col. 4, line 35-col. 5, line 67, i.e. an aggregate average profile formed by averaging the attributes of all target objects).

Re claim 31: Herz et al. disclose receiving input from the first user indicating how the first and second users' profile should be combined(col. 5, line 20-65).

Re claim 32: Herz et al. disclose presenting the first or second user with one or more questions to determine how the first and second users' profile should be combined(col. 5, line 20-65, col. 17-18).

Re claim 33: Herz et al. disclose the first user profile which correspond to the first user's preferences for one or more non-aesthetic characteristics of products(col. 4, line 35-col. 5, line 67, i.e. an aggregate average profile formed by averaging the attributes of all target objects).

Herz et al. disclose the invention except includes one or more tags. However, the term tag here refers to the HTML XML formatting tag that shows data on the internet browser screen in a specific format. It would be obvious to one of ordinary skill in the art to modify the invention of Herz et al. to include tags in order to show the user profile correctly on the computer screen.

Re claim 34: Herz et al. disclose the non-aesthetic preferences include at least one of desired price range, brand preference, vendor preference, or product availability(col. 6, lines 1-35).

13. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al. as applied to claim 1 above, and further in view of Herz et al.

Re claim 35: Herz et al. disclose wherein one or more of the plurality of images selected from the plurality of test images is selected to emphasize a particular aesthetic characteristic in the set of predetermined aesthetic characteristics (col. 5, lines 15-40, col. 6, lines 45-60).

14. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blau, Slotznick and Harada et al. as applied to claim 1 and in further view of Surville.

Re claim 37: Blau, Slotznick and Harada et al. disclose the invention except the grade represent a level of intensity of an aesthetic characteristic. However, in col. 4, line 40-col. 5, line 20 thereof, Surville disclose gradings based on characteristics of the object

being graded. It would be obvious to one of ordinary skill in the art to modify the invention of Blau and Harada et al. and Slotznick based on the teachings of Surville. The motivation to combine these references is to ensure appropriate grading scales for different products.


Allowable Subject Matter

15. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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